

## **Module 4 Chapter 3: Minnesota Criminal Code - Chapter 609**

### **Chapter 3 Overview**

This chapter provides an overview of Minnesota's Criminal Code, Chapter 609 of Minnesota Statutes, to help you recognize the most common types of criminal violations that may occur in child maltreatment cases including:

- Assault
- Criminal Sexual Conduct (CSC)
- Malicious punishment, and criminal neglect or endangerment
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Child welfare issues can easily cross into the jurisdiction of the criminal court system. A basic knowledge of certain criminal laws allows you to better advocate for children who are victims of criminal acts committed by caregivers or persons in authority over them.

### **The Role of Child Protective Services in Criminal Cases**

Child protective services plays an important role in relation to criminal court and it is important for you to become familiar with criminal laws.

Child maltreatment that constitutes a crime may be discovered and reported to child protection. When such a report is received, child welfare workers conduct family investigations. When child welfare cases enter the jurisdiction of criminal court, workers can expect to testify regarding their investigation, including types of evidence found and evaluated (such as interviews, photographs, etc.), maltreatment determinations, and services offered and provided.

### **The Role of Law Enforcement and County Attorney in Filing Charges**

Remember from Chapter 2 that reports of maltreatment must be cross-reported to law enforcement. A good relationship with officers in your county will facilitate sharing crucial information during investigation of criminal and civil cases.

When law enforcement becomes involved to investigate an alleged crime, the criminal investigation takes precedence over the civil child protection case. Law enforcement may arrest an alleged offender based on available evidence. Law enforcement does not file criminal charges, but refers cases to the county attorney with suggestions for charging based on evidence. The county attorney determines what charges, if any, will be filed based upon the available evidence. A trial, if warranted, is held in criminal court.

### **Criminal Child Maltreatment**

What, exactly, is criminal child maltreatment? This term refers to an act that involves a minor victim, constitutes the commission of one or more crimes, and is committed by an alleged perpetrator who is a caregiver or a person in authority over the child.

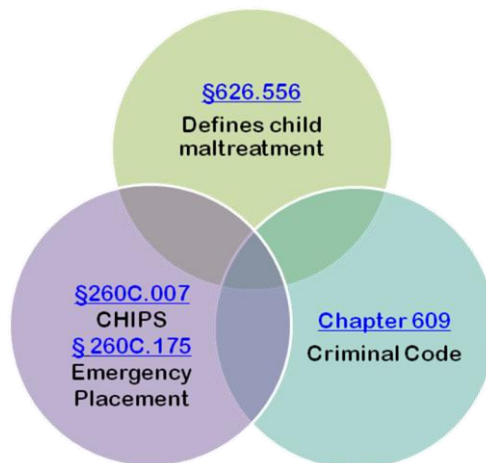
So how do the civil and criminal child maltreatment cases and statutes come together? Move to the next screen to learn more.

## Using Multiple Minnesota Statutes in Child Welfare Cases

As you know from Chapter 2, child protection cases begin when allegations meet child maltreatment definitions specified in [§626.556](#) and subsequently go through a Family Assessment Response or a Family Investigation.

Some of these cases require court intervention through a CHIPS petition for protection and/or services as defined in [§260C.007](#). Some cases also require emergency placement of a child as defined in [§260C.175](#). Remember, these court proceedings are civil matters.

And, some cases will have added criminal child maltreatment components as defined in [Chapter 609](#).



The following is a scenario demonstrating the use of these four statutes in one case.

### Using Multiple Minnesota Statutes in Child Welfare Cases

Here is an example of a case you may encounter. The case contains provisions of four Minnesota statutes.

Your child welfare agency accepts a report for Family Investigation.

- The basic details of the report involve a 10-year old boy living with both parents.
- The mandated reporter indicates the child has a black eye and bruises on both arms that appears to be hand prints.
- The child said his parents were fighting about “getting supplies” and “staying home to cook.”
- The boy’s dad grabbed him and punched him in the face because he asked his parents to be quiet. The child’s mom did not intervene in any way.
- The reporter said the child smells funny, like fertilizer, but he doesn’t live on a farm.
- The child’s grades are dropping and his clothes are dirty.
- The child told his teacher he is afraid to go home.

You immediately cross-report the allegations to law enforcement. You consult with your supervisor, law enforcement and the county attorney.

For this example, recall §626.556 and certain sections of Chapter 609.

Elements of §626.556 in this case include:

- Report by a mandated reporter
- Involvement of “persons responsible for the child’s care”
- Cross-report to law enforcement
- Alleged physical abuse and neglect
- Alleged substantial child endangerment

§626.556 refers to elements of Chapter 609:

- Alleged criminal child endangerment (that is, possible drug manufacturing)
- Alleged assault

### **Using Multiple Minnesota Statutes in Child Welfare Cases**

- The recorded child interview takes place on the same day with law enforcement.
- The interview reveals additional information that corroborates the initial report.
- Law enforcement has probable cause to obtain a search warrant.
- Law enforcement places the child on a 72-hour protective custody hold.
- Criminal charges for drug manufacturing, assault and criminal child endangerment are likely.

### **Using Multiple Minnesota Statutes in Child Welfare Cases**

Recall §626.556, §260C.175 and Chapter 609 to help you think through aspects of this case:

Elements of §626.556 include:

- Recorded interview same day as report
- Child’s interview statement corroborates abuse, neglect, and methamphetamine lab

Elements of §260C.175 include:

- Emergency placement of child by law enforcement

Elements of Chapter 609 include:

- Alleged assault
- Alleged criminal child endangerment
- Alleged drug manufacturing

### **Using Multiple Minnesota Statutes in Child Welfare Cases**

- The search warrant is executed and a methamphetamine lab is discovered.
- Both parents are arrested and the father admits to punching his son; the mother refuses to speak without an attorney present.
- A CHIPS petition is filed and the child remains in protective custody.
- Criminal charges for assault, criminal child endangerment and drug-related crimes are pending.

### **Using Multiple Minnesota Statutes in Child Welfare Cases**

Recall §260C.007 and Chapter 609 to help you think through aspects of this case:

Elements of §260C.007 include:

- Child is in placement
- CHIPS petition is filed – child is in need of protection or services

#### Chapter 609

- Criminal charges are pending: assault, criminal child endangerment, drug-related crimes

## Key Elements of Chapter 609

The previous example illustrates the importance of understanding aspects of the Minnesota Criminal Code. The next section focuses on the most common criminal violations found in child protection cases:

- **Assault**
- **Criminal Sexual Conduct (CSC)**
- **Malicious punishment, and criminal neglect or endangerment**

First, let's consider the term assault in Minnesota statute.

Refer to the chart, “Minnesota Criminal Code - Chapter 609”, available from the Attachments tab in this module. This document provides additional detail and is a useful reference in your training and work.

## Assault

Minnesota Statute 609.02 Subd. 10, located at <https://www.revisor.mn.gov/statutes/?id=609.02>

Assault is defined as:

- An act done with intent to cause fear in another of immediate bodily harm or death;
- The intentional infliction of or attempt to inflict bodily harm upon another.

There are different degrees of assault. The degree of assault depends, in part, on the amount of harm caused to the victim's body. To understand the different degrees of assault, you need awareness and understanding of the different levels, or types, of bodily harm.

## Bodily Harm

Minnesota Statute 609.02 defines levels of harm. The **degree** of an assault is determined, in part, by the level of bodily harm a perpetrator inflicts upon the victim. Learn the three levels of bodily harm defined in Minnesota Statute 609.02 below:

**Bodily Harm:** Physical pain or injury, illness or any impairment of physical condition.

**Substantial Bodily Harm:** Bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

**Great Bodily Harm:** Bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss

or impairment of the function of any bodily member or organ or other serious bodily harm.

### **Assault in Minnesota Statute**

Remember that the **degree** of assault depends, in part, on the level of bodily harm.

The following are simplified definitions of each of the five degrees of assault defined in Minnesota Statute.

#### **§ 609.221 Assault in the First Degree**

<https://www.revisor.mn.gov/statutes/?id=609.221>

Infliction of great bodily harm.

#### **§ 609.222 Assault in the Second Degree**

<https://www.revisor.mn.gov/statutes/?id=609.222>

Includes use of a dangerous weapon.

#### **§ 609.223 Assault in the Third Degree**

<https://www.revisor.mn.gov/statutes/?id=609.223>

- 1) Infliction of substantial bodily harm; **or**
- 2) The court finds the perpetrator has **engaged in a past pattern of child abuse** against the minor child, **or**
- 3) Victim is under the age of four, and perpetrator inflicts bodily harm to the child's head, eyes, or neck, or otherwise causes multiple bruises to the body.

#### **§ 609.2231 Assault in the Fourth Degree**

<https://www.revisor.mn.gov/statutes/?id=609.2231>

Victims are specifically identified as peace officers, firefighters and emergency personnel, public employees with mandated duties – specifically child protection workers, and other public workers; demonstrable bodily harm must be inflicted regardless of victim type.

“**Demonstrable bodily harm**” is not defined by statute. It is a word of common usage. Webster’s Dictionary defines “demonstrable” as: “capable of being demonstrated” (i.e. cuts, scratches, visible bruises or non-visible medically confirmed injuries that do not cause permanent disfigurement or injury).

#### **§ 609.224 Assault in the Fifth Degree**

<https://www.revisor.mn.gov/statutes/?id=609.224>

- 1) Commission of an act with intent to cause fear in another of immediate bodily harm or death;
- 2) Intentional infliction or an attempt to inflict bodily harm upon another.

## Criminal Sexual Conduct

### [Minnesota Statute 609.341](#)

#### **Criminal Sexual Conduct Definitions**

Before learning about the degrees of **Criminal Sexual Conduct (CSC)**, you need to know that many definitions apply to the different degrees of CSC. **Minnesota Statute 609.341** provides the definitions.

There are four important statutory terms and definitions related to CSC:

- **Actor:** A person accused of criminal sexual conduct.
- **Coercion:** An actor uses words or circumstances that cause the complainant to reasonably fear that the actor will inflict bodily harm upon the complainant or another person; or the actor uses confinement, or superior size or strength against the complainant that causes the complainant to submit to sexual penetration or contact against the complainant's will.
- **Complainant:** A person alleged to have been subjected to criminal sexual conduct, but need not be the person who signs the complaint.
- **Force:** The actor inflicts, attempts to inflict, or threatens to inflict bodily harm against the complainant or another person, which causes the complainant to reasonably believe the actor has the present ability to execute the threat.

#### **Criminal Sexual Conduct (CSC)**

There are five degrees of **Criminal Sexual Conduct** in Minnesota Statute.

Please note that not all elements of CSC are presented here; this content is greatly abbreviated because in your role as a child protection social worker, your need is awareness and recognition.

The following are simplified definitions of CSC. Refer to the appropriate CSC statutes to review all conditions and factors for each degree.

##### **§ 609.342 CSC in the First Degree**

<https://www.revisor.mn.gov/statutes/?id=609.342>

A person who engages in sexual penetration with another person, or in sexual contact with a person under 13 years of age if any of the following circumstances exists:

- (a) Complainant is under 13 years of age and actor is more than 36 months older;
- (b) Complainant is at least 13 years of age but less than 16 years of age and actor is more than 48 months older and in a position of authority over complainant;
- (c) Circumstances cause complainant to have reasonable fear of imminent great bodily harm;
- (d) Actor has a dangerous weapon and uses or threatens to use it to cause complainant to submit.

##### **§ 609.343 CSC in the Second Degree**

<https://www.revisor.mn.gov/statutes/?id=609.343>

CSC in the First and Second Degrees are very similar with one significant difference: CSC in the First Degree involves sexual penetration while CSC in the Second Degree stipulates **sexual contact, not including penetration**.

#### **§ 609.344 CSC in the Third Degree**

A person who engages in **sexual penetration** with another person if any of the following circumstances exists:

- (a) Complainant is under 13 years of age and actor is no more than 36 months older;
- (b) Complainant is at least 13 but less than 16 years of age and actor is more than 24 months older;
- (c) Actor uses force or coercion to accomplish penetration;
- (d) Actor knows or has reason to know complainant is mentally impaired, mentally incapacitated, or physically helpless;
- (e) Complainant is at least 16 but less than 18 years of age and actor is more than 48 months older and in a position of authority over complainant.

#### **§ 609.345 CSC in the Fourth Degree**

<https://www.revisor.mn.gov/statutes/?id=609.344>

CSC in the Third and Fourth Degrees are very similar with one significant difference: CSC in the Third Degree involves sexual penetration while CSC in the Fourth Degree stipulates **sexual contact, not including penetration**.

While there are other distinctions between CSC in the Third and Fourth Degrees, you will not be called upon in your position to identify them.

#### **§ 609.3451 CSC in the Fifth Degree**

<https://www.revisor.mn.gov/statutes/?id=609.3451>

When a person commits any of the following:

- (1) If the person engages in nonconsensual sexual contact; or
- (2) The person engages in masturbation or lewd exhibition of the genitals in the presence of a minor under age 16, knowing or having reason to know the minor is present.

#### **Criminal Sexual Conduct Summary**

While you are not expected to know the complete content of the Criminal Code as it relates to Criminal Sexual Conduct, you are likely to be exposed to situations involving alleged CSC. In such cases, consult with your supervisor, law enforcement and the county attorney.

### **Malicious Punishment, and Criminal Neglect or Endangerment**

The last category of criminal child maltreatment is **malicious punishment, and criminal neglect or endangerment**. The following are definitions found in Minnesota Statute 609.376. located at <https://www.revisor.mn.gov/statutes/?id=609.376>

**Child:** Any person under the age of 18 years.

**Caretaker:** An individual who has responsibility for the care of a child as a result of a family relationship or who has assumed responsibility for all or a portion of the care of a child.

**Complainant:** A person alleged to have been a victim of unreasonable restraint, malicious punishment, criminal neglect or endangerment, but need not be the person who signs the complaint.

Next, let's look at the two specific statutes in this category: malicious punishment, and criminal neglect or endangerment.

### **§ 609.377 Malicious Punishment of a Child**

<https://www.revisor.mn.gov/statutes/?id=609.377>

A parent, legal guardian, or caretaker who, by an intentional act or a series of intentional acts with respect to a child, evidences unreasonable force or cruel discipline that is excessive under the circumstances. Includes:

- Punishment resulting in less than substantial bodily harm;
- Punishment to a child under age four causing bodily harm to the head, eyes, neck, or causes multiple bruises to the body;
- Punishment resulting in substantial bodily harm;
- Punishment resulting in great bodily harm.

### **Criminal Neglect or Endangerment**

- Minnesota § 609.378, located at <https://www.revisor.mn.gov/statutes/?id=609.378> defines Criminal Neglect or Endangerment.

#### **Neglect**

- 1) A parent, legal guardian, or caretaker willfully deprives a child of necessary food, clothing, shelter, health care, or supervision appropriate to the child's age, **or**
- 2) A parent, legal guardian, or caretaker knowingly permits the continuing physical or sexual abuse of a child.

#### **Endangerment**

A parent, legal guardian, or caretaker endangers the child's person or health by:

- 1) Intentionally or recklessly causing or permitting a child to be placed in a situation likely to substantially harm the child's physical, mental, or emotional health or cause the child's death; **or**
- 2) Knowingly causing or permitting the child to be present where any person is selling, manufacturing, possessing immediate precursors or chemical substances with intent to manufacture, or possessing a **controlled substance**.

#### **Endangerment by Firearm Access**

A person intentionally or recklessly causes a child under 14 years of age to be placed in a situation likely to substantially harm the child's physical health or cause the child's death as a result of the child's access to a loaded firearm.



## Summary

There are many dimensions to child protective services work. At times, child welfare cases will overlap with criminal cases and you will need to apply your knowledge of crimes against children to your work with families, law enforcement and the courts.

You are encouraged to consult with your supervisor, peace officers and the county attorney in all cases that may cross over into the criminal arena.

## Next Steps

Visit the following links to the Minnesota Office of the Revisor of Statutes:

- The Minnesota Statutes Table of Chapters, located at <https://www.revisor.mn.gov/statutes/?>. From this location you can search for information by chapter.

Continue to build your training binder with documents and printouts from this chapter. From the Attachments tab in Module, locate and print:

- The chapter transcript. File it in your binder, behind the Module 4 Transcript tab.
- The chart, Minnesota Criminal Code - Chapter 609, if you have not already done so. File it behind the Policy: Federal/State tab.

Consult with your supervisor regarding any questions about the content of this module.

Review the Glossary terms for this chapter.

Complete the Module 4 Post-Test.

When you are ready, begin Module 5.